

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

STEPHEN W. BYERLY,

Plaintiff,

v.

Case No. 2:13-CV-00411

JUDGE EDMUND A. SARGUS, JR.

Magistrate Judge Norah M. King

ROSS CORRECTIONAL INST., *et al.*,

Defendants.

ORDER

On May 1, 2013, the Magistrate Judge issued a Report and Recommendation in this action. (ECF No. 11.) Pursuant to an initial screen of Plaintiff's *in forma pauperis* Complaint under 28 U.S.C. § 1915, the Magistrate Judge recommended that Defendant Ross Correctional Institution be dismissed. The Report and Recommendation informed the parties that failure to object would result in waiver of the right to *de novo* review by the District Judge and of the right to appeal.

On May 16, 2013, Plaintiff, who is proceeding *pro se*, submitted a response to the Report and Recommendation. (ECF No. 14.) Within the document, Plaintiff represented that he would "agree" to dismissal of Defendant Ross Correctional Institution, but objected to any waiver of his rights to *de novo* review and appeal.

Plaintiff fails to raise any substantive objections to dismissal of Defendant Ross Correctional Institution. Moreover, the Magistrate Judge was correct "that a party's failure to object to a magistrate judge's report, within the time provided for filing objections, operates as a waiver of that party's right to appeal." *Gant v. Genco I, Inc.*, 274 F. App'x 429, 432 (6th Cir.

2008). Accordingly, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation (ECF No. 11) and **OVERRULES** Plaintiff's Objections (ECF No. 114) to the extent he objects. Defendant Ross Correctional Institution is **DISMISSED** from this action.

IT IS SO ORDERED.

8-5-2013
DATE



EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE